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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,452	12/15/2003	Conrad S. Mikulec	CM04	1451
27797	7590	08/09/2005	EXAMINER	
RICHARD D. FUERLE 1711 W. RIVER RD. GRAND ISLAND, NY 14072			BARNEY, SETH E	
			ART UNIT	PAPER NUMBER
			3752	
DATE MAILED: 08/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,452

Applicant(s)

MIKULEC, CONRAD S.

Examiner

Seth Barney

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-21 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/9/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on June 9, 2005. These drawings are acceptable.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8, 9, 14, 15, 17, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,979,572 to Mikulec.

Regarding claim 1 and 17, Mikulec discloses a fire extinguishing actuator having:

- an elongate body made of single piece (not expressly numbered). See Figure 3.

- a longitudinal chamber that extends through the body, for holding a ram (101)

and a spring (108) for propelling the ram. See Figure 3.

- a first transverse aperture that joins the chamber for holding a trigger (37) that releases the spring. See Figure 3.

- a second transverse aperture that joins the chamber at about a right angle for holding a member that moves in response to movement of the ram, where movement of the member activates the release of the composition from the cylinder. See Figure 3 and column 3 lines 41 to 56.

Regarding claim 2, a microswitch (124) is attached to one end of the chamber.

See Figure 3.

Regarding claim 3, a cable (140) that slides in a sheath (126) and is activated by the ram is attached at one end of the chamber. See Figures 2 and 3.

Regarding claim 4, there is a microswitch or cable on both sides of the chamber in the same way the instant application has a microswitch on both sides of the chamber.

Regarding claim 5, a fusible link (36) is attached between the trigger and on end of the body. See Figure 1.

Regarding claim 6, the member is a plunger (41) that pierces a seal on the cylinder. See Figure 3.

Regarding claim 8, both apertures are circular in cross section. See Figures 2 and 3.

Regarding claim 9, the actuator includes a ram (101), a compressed spring (108) within the longitudinal chamber, a trigger (37) within the first aperture, and a member (41) within a second aperture.

Regarding claims 14 and 18, the system is a fire extinguisher.

Regarding claims 15 and 19, the fire extinguisher is mounted in a hood. See Figure 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3752

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-13, 16, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,979,572 to Mikulec.

Mikulec discloses all of the limitations set forth in the claims except for the main body is an extruded piece of metal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to extrude the elongated body part in order to easily and cheaply produce a long profile piece.

Allowable Subject Matter

6. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed June 17, 2005 have been fully considered but they are not persuasive. While the examiner concedes that there are multiple pieces combined in U.S. Patent No. 4,979,572 to Mikulec, there is in fact an elongated body made of single piece containing all of the structure of the claims. Therefore the rejections of claims 1-3, 5, 6, 8, 9, 14, 15, 18, and 19 under 35 U.S.C. 102 and 10-13, 20, and 21 under U.S.C. 103(a) are maintained.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney
Examiner
Art Unit 3752

sb



David A. Scherbel
Supervisory Patent Examiner
Group 3700